



500.49 Search Warrants

Number Series: 500—Operational

Sheriff's Approval: Digital

Approved Date: July 30, 2018

Review Due Date: July 30, 2021

Review Frequency: 3- Years

POLICY

The agency will ensure the efficient, effective, and safe execution of all search warrants.

PROCEDURE

A. Drafting the Affidavit for the Search Warrant

1. The affidavit shall contain the following elements:
 - a. The facts providing probable cause for the search warrant.
 - b. The violation of law that has occurred or is occurring.
 - c. A detailed description of the person, place, vehicle, or thing to be searched.
 - d. A specific description of the property to be seized.
 - e. Whether day, night, or Sunday service is requested.

B. Drafting the Search Warrant

1. The search warrant shall contain the following elements:
 - a. Name of the affiant.
 - b. Description of the person, place, vehicle or thing to be searched.
 - c. The violation of law that has occurred or is occurring.
 - d. A specific description of the property to be seized.
 - e. Signature of the authorizing judge and title of office (Circuit or County Court of the 20th Judicial Circuit of Florida, in and for Hendry County).

C. Approval Process

1. The approval process shall include the following:
 - a. Review by a supervisor to ensure accuracy. The supervisor will ensure that particular attention is given to the physical description of the premises, items sought, and probable cause.
 - b. The affidavit and warrant are provided to an Assistant State Attorney for review and/or discussion who will evaluate the documents for legal sufficiency prior to seeking a judge for review.
 - c. During business hours the completed affidavit and search warrant will be presented to a judge who will evaluate the documents for legal sufficiency.
 - d. During non-business hours, the case detective/deputy shall be responsible for contacting the on-call judge.

- e. If a judge determines the documents to be unacceptable, under no circumstances will another judge be contacted to review the same documents.
- f. The Operation Plan is reviewed and approved by the case detective's supervisor.

D. Operation Plan

1. To be completed by the case detective/deputy and contain all necessary approvals.
2. The Operational Plan will include information of person(s) known to be on or affiliated with the location of the search warrant, layout or sketch of the location, pictures or video of the location, detailed factors facing the execution of the search warrant, i.e.; alarms, motion lights, bars on windows and doors, fences, animals, etc.
3. Documentation of all personnel involved with the execution of the search warrant, including personnel utilized to search the location.
4. Any other information gathered by the case detective/deputy, which will assist with the execution of the search warrant.
5. The original Operational Plan will be maintained with the investigative case file and a copy will be forwarded to the SRT Team Commander or his designee.

E. High Risk Search Warrant Service

1. Prior to the execution of a search warrant, other than those for a vehicle or person, a review of the warrant and operational plan will be conducted by the Special Response (SRT) Team Commander, or his designee. The review will determine if the warrant is "high risk". The following conditions are factors that may be considered for a "high risk" service of a search warrant. These factors singularly and in consonance with each other may necessitate a "high risk" service, as well as additional Sheriff's personnel or resources. These illustrated factors are not all inclusive; other factors may be evaluated based on specific intelligence obtained during the investigation.

F. Factors leading to request for utilization of SRT for entry and service of search warrant entry requests:

1. Residential/Business areas where there is a high potential for unrest or propensity for a disturbance with the presence of law enforcement officers during the execution of the warrant.
2. Misdemeanor or felony arrest history of violence towards or resistance to law enforcement officers by known occupants or frequent guests of the residence to be served.
3. Documented information concerning possession of firearms or weapons by the residents of the property to be searched and/or known frequent occupants of the residence/property to be searched.
4. Documented information concerning the presence of extraordinary security measures at the location of the search (reinforced doors, bars on windows, alarms, etc.)
5. Information substantiating known or reasonably suspected counter surveillance measures undertaken by the residents of the property to be searched or known frequent occupants of the residence to be searched.
6. Information substantiating the presence of a drug laboratory for the production of controlled substances on or about the location to be searched.

7. Any search warrant other than those of a vehicle, person, or a premise determined to be unoccupied.
8. The determination as to whether a search warrant should be considered “high risk” is the responsibility of the SRT Team Commander or his designee.
9. After evaluation by the SRT Team Commander or his designee and the warrant is determined to be less than “high risk,” the warrant may be executed on a unit level.
10. The determination of the warrant as “high risk” or “less than high risk” will be forwarded to the requesting authority in writing (e-mail/ops plan).
11. The requesting authority will then personally ensure that the Lieutenant, Patrol Supervisor in the affected district and any affected law enforcement jurisdiction supervisor has been notified in advance of the time, date and location of the warrant.

G. Execution of the Search Warrant

1. The following procedures shall apply when executing the search warrant:
 - a. The SRT Team Commander or his designee shall be notified in advance of all “high-risk” search warrants. All reasonable efforts should be made to notify SRT five (5) days in advance of the anticipated execution. Exigent circumstances may not allow for ideal advance notice, in those cases the SRT supervisor shall determine if SRT can safely execute the search warrant as scheduled.
 - b. Risk determination for search warrant execution shall be made and documented by the SRT Team Commander or designee only.
 - c. The search warrant will be executed as soon as practical within the 10-day limit. If the search and/or processing of the scene are to extend beyond the 10 days, a new search warrant is required.
 - d. A supervisor (consisting of the rank of sergeant or higher) will be present during the execution of the search warrant. An exception is for searches of vehicles or premises known to be unoccupied and non-life threatening.
 - e. The case detective/deputy shall be responsible for all aspects of the case to include but not be inclusive of: properly securing, packaging, transporting and submission of any evidence. The case detective’s/deputy’s supervisor shall notify the Crime Scene Unit, should a Crime Scene Technician be needed at the scene of the search warrant. The request should be made in advance to allow the Crime Scene Technicians an opportunity to be present at the search warrant briefing.
 - f. The case detective/deputy shall make every effort to initiate pre-surveillance of the search warrant location prior to service if feasible to gather further intelligence.
 - g. The case detective/deputy’s supervisor or their designee shall request the assistance of other Sheriff’s Office personnel if deemed necessary to assist with security of the search warrant location and/or transportation of suspects.

H. Distribution

1. Search warrants will be prepared and distributed in the following manner:
 - a. The search warrant will be prepared with an original and two copies.
 - b. The affidavit for search warrant will be prepared with an original and one copy.

- c. The original documents will be returned to the clerk of the issuing court after service.
- d. One signed copy of the search warrant and receipt/return of evidence taken will be left at the scene of service. A copy of the search warrant affidavit shall be left at the scene of the search warrant at the discretion of the case detective.
- e. One copy of each document will be submitted with the case management file.

I. Search

- 1. Prior to any search for evidence in the residence, photographs and/or video will be taken for documentation purposes.
- 2. Areas to be searched will be denoted to assist with identification.
- 3. The case detective shall brief all persons involved in the evidence search as to the items to be seized in reference to the search warrant.
- 4. An evidence collection area will be identified and manned for proper documentation of evidence seized during the search.
- 5. Once evidence is located, it should be photographed prior to collection and then taken to the collection area for documentation.
- 6. Documentation should include the description of property, location found and identification of the person locating the property.
- 7. Items of property should be properly packaged and then turned over to the custody of the designated evidence custodian.

J. Computers

- 1. Seizure of computers will only be made by or with the guidance of a certified computer forensic technician.
- 2. It is preferable that the entire system with peripherals be seized.
- 3. Detective trained with the use of preview software may complete previews of the computer as directed by the case detective.
- 4. Only a certified forensic technician will complete forensic examinations.

K. Probation searches

- 1. Probation searches are administrative searches with the Sheriff's detectives acting in a security or technical assistance capacity.
- 2. Evidence uncovered during an administrative search may not be used as evidence in a new criminal case in many instances, only to prove a violation of probation.
- 3. Detectives will assist probation as necessary, however probation should conduct the search as it relates to violations of probation.
- 4. Those detectives trained in the use of preview software programs may be called upon to preview the computer of a probationer, if possible obtain consent to search by using a department form, from the subject prior to conducting the preview.
- 5. All evidence obtained during an administrative search with Probation will be documented by Sheriff's detectives and collected according to HCSO guidelines.

L. Return

- 1. The search warrant and affidavit for search warrant shall be returned to the court. The Affiant deputy shall ensure that the original search warrant, affidavit, and inventory and receipt/return forms are completed and returned to the Clerk of the Court within ten days of the issuance of the warrant.

M. No-Knock

1. A deputy considering a “no-knock” execution of a search warrant should pursue all resources available to him/her to determine if there is a legal basis for a “no-knock” execution, as well as sufficient agency and legal review to include (but not limited to):
 - a. Immediate supervisor review and approval
 - b. Chief Deputy review and approval
 - c. Assistant State Attorney review and discussion

N. Distracting Devices / Identification

1. Distracting devices should not be used where there is an indication that elderly persons, persons with serious medical conditions, or small children are present. Service of the warrant should be coordinated to minimize the probability of this situation existing. An exception to this rule would be where there is a reasonable, articulable circumstance which leads the detective/deputy to believe that officer safety or the safety of those elderly people, persons with serious medical condition or small children in the premise to be searched would be compromised by the non-use of distracting devices.
2. In the event that distracting devices are anticipated or approved for use during the execution of a search warrant, fire-extinguishing equipment should be within the general vicinity of the location to be searched to facilitate a hastened response if needed.
3. Distracting devices include but are not limited to noise flash devices, chemical, and smoke detectives, and manual distraction techniques.
4. The entry team shall be uniformed with the insignia or lettering front and back identifying the team as deputy sheriffs, and should make every effort to verbally identify themselves as law enforcement personnel.
5. Verbal language announcing the presence and purpose of the entry team action should be clear and explicit identifying the entry team as deputy sheriff's or law enforcement officers, i.e. repeating the word “Sheriff”, “Deputy Sheriff”, or “police officer” consistently during the entry.
6. All assisting/supporting detectives/deputies shall wear issued body armor with clearly marked agency identification such as “deputy sheriff” or “police officer” on front and back.

O. The SRT Team Leader will direct an SRT Team member to complete a supplemental case report to the original case report outlining the SRT personnel involved, assignments of personnel, unusual circumstances, time of briefing and debriefing, and any other circumstances that may pertain to the investigation.

P. A post action debriefing of all parties involved in the execution of the warrant is recommended at the conclusion of the execution of any search warrant where SRT is utilized.

DEFINITIONS

AFFIDAVIT FOR SEARCH WARRANT - A document utilized to present facts, supported by oath or affirmation, outlining probable cause for the issuance of the search warrant.

CASE DETECTIVE – Detective/Deputy who is the lead and organizing detective of the investigation that a warrant may be utilized in.

DISTRACTING DEVICES – Explosive, chemical, combustible detectives, or manual distractions, utilized to create diversions facilitating a tactical entry into a location.

ENTRY TEAM – Personnel assigned to make initial entry into a location where a search warrant has been authorized and secure that location for the search of that location.

INVENTORY AND RECEIPT/RETURN – A document listing items seized during a search by warrant.

SEARCH WARRANT – A document that authorizes a search for and the seizure of evidentiary items.

SEARCH WARRANT OPERATIONAL PLAN – Document outlining detailed information of the search warrant location.

STANDARD SEARCH WARRANT SERVICE – Execution/service of a search warrant, which requires adherence to deputies “knocking” and “announcing” their presence and purpose.

REFERENCES

State/Federal Regulations:

None

CFA:

CFA Standards 15.08M and 15.11M

Forms:

- 500.49-01 Search Warrant Affidavit Template
- 500.49-02 Search Warrant Template
- 500.49-03 Search Warrant OPS PLAN
- 500.49-04 SRT Operation Roster
- 500.49-05 SRT Operation Debriefing Final
- 500.49-06 Search Warrant Inventory & Return

Other Policy/ Procedure References:

500.40 Evidence Collection and Storage